

10672-A
RECORDATION NO. Filed 1425

JUL 26 1979 - 11 00 AM

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MCDONNELL DOUGLAS FINANCE CORPORATION
3855 LAKEWOOD BOULEVARD, LONG BEACH, CALIFORNIA 90846

INTERSTATE COMMERCE COMMISSION
July 25, 1979

HAND DELIVERED

Mrs. Agatha L. Mergenovich
Secretary
INTERSTATE COMMERCE COMMISSION
Washington, D.C. 20423

No.
Date JUL 26 1979
Fee \$ 100.00
ICC Washington, D. C.

RECEIVED
JUL 26 10 57 AM '79
FEE OPERATION BR.
I.C.C.

Dear Mrs. Mergenovich:

Enclosed for filing with and recording by the Interstate Commerce Commission are an original and one copy of a Lease Agreement for railroad cars dated as of July 2, 1979 between North Stratford Railroad Corporation, 126 Main Street, Littleton, New Hampshire 03561, as Lessee, and MDFC Equipment Leasing Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, as Lessor, covering the following railroad equipment:

75 40' General Purpose Rebuilt Boxcars rebuilt by Railway & Industrial Services, Inc.; Road numbers NSRC 425-449, inclusive.

Identifying marks on the foregoing equipment: The words "Ownership subject to documents filed under the Interstate Commerce Act, Section 11303" printed on each side of each unit.

Also enclosed for filing are an original and one copy of a Management Agreement in respect of the above railroad cars, dated as of July 2, 1979, between MDFC Equipment Leasing Corporation, as Owner, and Brae Corporation, Inc., as agent, pursuant to which Brae, has agreed to manage the cars on behalf of MDFC Equipment Leasing Corporation.

Finally, we have enclosed this Company's check in the sum of \$50.00 payable to the Interstate Commerce Commission which we understand is the prescribed fee for filing and recording the foregoing documents.*

Please return the extra enclosed copies with recordation data stamped thereon to the representative of the office of Kunkel Transportation Services, Inc., 425-13th Street, N.W., Suite 523, Washington, D.C. 20004, who will be delivering this letter to you on our behalf.

* Kunkel Transportation Services, Inc.
check for \$50.00 also enclosed.

Very truly yours,

MDFC EQUIPMENT LEASING CORPORATION

By: James M. Mahanick
Its: Committee

A SUBSIDIARY OF
MCDONNELL DOUGLAS CORPORATION

JMM:tc
Enclosures

Interstate Commerce Commission
Washington, D.C. 20423

7/26/79

OFFICE OF THE SECRETARY

MDFC Equipment Leasing Corporation
3855 Lakewood Blvd.
Long Beach, California 90846

Dear

Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 7/26/79 at 11:00am, and assigned re-recording number(s).

10672 & 10672-A

Sincerely yours,

Agatha L. Mergenovich
Agatha L. Mergenovich
Secretary

Enclosure(s)

SE-30
(7/79)

MDFC EQUIPMENT
LEASING CORPORATION

10672
RECORDATION NO. Filed 1425

JUL 26 1979 - 11 00 AM

INTERSTATE COMMERCE COMMISSION

LEASE AGREEMENT

THIS LEASE AGREEMENT, made as of this 2nd day of July 1979, between MDFC Equipment Leasing Corporation, a Delaware Corporation ("MDFC") as Lessor and NORTH STRATFORD RAILROAD CORPORATION, a New Hampshire Corporation ("Lessee"), as Lessee.

1. Scope of Agreement

A. MDFC agrees to lease to Lessee, and Lessee agrees to lease from MDFC freight cars as set forth in any lease schedules executed by the parties concurrently herewith or hereafter and made a part of this Agreement. The word "Schedule" as used herein includes the Schedule or Schedules executed herewith and any additional Schedules and amendments thereto, each of which when signed by both parties shall be a part of this Agreement. The scheduled items of equipment are hereinafter called collectively the "Cars."

B. It is the intent of the parties to this Agreement that MDFC shall at all times be and remain the lessor of the Cars. Lessee agrees that it will at no time take any action or file any document which is inconsistent with the foregoing intent and that it will take such action and execute such documents as may be necessary to accomplish this intent.

2. A. This Agreement shall remain in full force until it shall have been terminated as to all of the Cars as provided herein. The lease pursuant to this Agreement with respect to each Car shall commence when such Car has been delivered, as provided in Section 3A hereof, and shall continue until fifteen (15) years (the "initial lease term") have expired from the actual date of delivery, as provided in Section 3A hereof, for the last of the Cars described on the Schedule on which such Car is described.

B. If this Agreement has not been earlier terminated and no default has occurred and is continuing, it shall automatically be extended for not more than five consecutive periods of twelve months each (the "extended lease term") with respect to all of the Cars described on each Schedule, provided, however, that MDFC or Lessee may terminate this Agreement at the expiration of the initial or any extended lease term as to all, but not fewer than all, of the Cars on any Schedule by written notice delivered to the other not less than twelve months prior to the end of the initial or such extended lease term, as the case may be.

3. Supply Provisions

A. MDFC will inspect each of the Cars tendered by the manufacturer for delivery to Lessee. Prior to such inspection, however, Lessee shall confirm in writing to MDFC that the sample Car which will be made available for Lessee's inspection prior to the commencement of deliveries conforms to the specifications of the equipment agreed to by Lessee. Upon such approval by Lessee and MDFC's determination that the Car conforms to the specifications ordered by MDFC and to all applicable governmental regulatory specifications, and this Agreement has not been terminated, MDFC will accept delivery thereof at the manufacturer's facility and shall notify Lessee in writing of such acceptance. Each of the Cars shall be deemed delivered to Lessee upon acceptance by MDFC. The Cars shall be moved to Lessee's railroad line at no cost to Lessee as soon after acceptance of delivery by MDFC as is consistent with mutual convenience and economy. Due to the nature of

railroad operations in the United States, MDFC can neither control nor determine when the Cars leased hereunder will actually be available to Lessee for its use on its railroad tracks. Notwithstanding that Lessee may not have immediate physical possession of the Cars leased hereunder, Lessee agrees to pay to MDFC the rent set forth in this Agreement. To move the Cars to Lessee's railroad line and insure optimal use of the Cars after the first loading of freight for each Car on the railroad line of Lessee (the "initial loading"), MDFC agrees to assist Lessee in monitoring Car movements and, when deemed necessary by Lessee and MDFC to issue movement orders with respect to such Cars to other railroad lines in accordance with ICC and AAR interchange agreements and rules.

B. Lessee agrees that so long as it shall have on lease any Cars, it shall not lease freight cars from any other party (other than 25 Cars to be leased from Brae Corporation) until it shall have received all of the Cars on the schedule hereto. Lessee shall give preference to MDFC and Brae, and shall load the Cars leased from MDFC and Brae prior to loading any substantially similar freight cars; as between Brae and MDFC, Lessee shall give priority in the ratio of 3 Cars of MDFC's to 1 Car of Brae's provided, however, that this shall in no event prevent or prohibit Lessee from fulfilling its obligations to provide transportation and facilities upon reasonable request therefor to shipper on its railroad tracks.

C. Additional Cars may be leased from MDFC by Lessee only upon the mutual agreement of the parties hereto. Upon such agreement, such additional Cars shall be identified in Schedules to this Agreement and shall benefit from and be subject to this Agreement upon execution of the Schedules by MDFC and Lessee. Notwithstanding the execution of any Schedules, including Schedules for additional Cars, the delivery of any Car to Lessee shall be subject to manufacturer's delivery schedules, financing satisfactory to MDFC and the mutual acknowledgment of the parties that the addition of such Cars is not likely to reduce utilization of all Cars on lease to Lessee to less than 87.5 per cent in any calendar quarter. If, due to the factors listed in the preceding sentence, fewer than all of the Cars listed on a Schedule shall be delivered to Lessee, the term of the lease shall be deemed to have commenced on the date the final Car of the most recent group of Cars was delivered to Lessee.

4. Railroad Markings and Record Keeping

A. MDFC and Lessee agree that on or before delivery of any Cars to Lessee, said Cars will be lettered with the railroad markings of Lessee and may also be marked with the name and/or other insignia used by Lessee. Such name and/or insignia shall comply with all applicable regulations.

B. At no cost to Lessee, MDFC shall during the term of this Agreement prepare for Lessee's signature and filing all documents relating to the registration, maintenance and record keeping functions involving the Cars. Such documents shall include but are not limited to the following: (i) appropriate AAR documents including an application for relief from AAR Car Service Rules 1 and 2; (ii) registration in the Official Railway Equipment Register and the Universal Machine Language Equipment Register; and (iii) such reports as may be required from time to time by the ICC and/or other regulatory agencies.

C. Each Car leased hereunder shall be registered at no cost to Lessee in the Official Railway Equipment Register and the Universal Machine Language Equipment Register. MDFC shall, on behalf of Lessee, perform all record keeping functions related to the use of the Cars by Lessee and

other railroads in accordance with AAR railroad interchange agreements and rules, such as car hire reconciliation. Correspondence from railroads using such Cars shall be addressed to Lessee at such address as MDFC shall select.

D. All record keeping performed by MDFC hereunder and all record of payments, charges and correspondence related to the Cars shall be separately recorded and maintained by MDFC in a form suitable for reasonable inspection by Lessee from time to time during regular MDFC business hours. Lessee shall supply MDFC with such reports, including daily telephone reports of the number of Cars on Lessee's tracks, regarding the use of the Cars by Lessee on its railroad line as MDFC may reasonably request.

5. Maintenance, Taxes and Insurance

A. Except as otherwise provided herein, MDFC will pay all costs, expenses, fees and charges incurred in connection with the use and operation of each of the Cars during its lease term and any extension thereof, including but not limited to repairs, maintenance and servicing, unless the same was occasioned by the fault of Lessee. Lessee shall inspect all Cars interchanged to it to insure that such Cars are in good working order and condition and shall be liable to MDFC for any repairs required for damage not noted at the time of interchange. Lessee hereby transfers and assigns to MDFC for and during the lease term of each Car all of its right, title and interest in any warranty in respect to the Cars. All claims or actions on any warranty so assigned shall be made and prosecuted by MDFC at its sole expense and Lessee shall have no obligation to make any claim on such warranty. Any recovery under such warranty shall be payable solely to MDFC.

B. Except as provided above, MDFC shall make or cause to be made such inspections of, and maintenance and repairs to, the Cars as may be required. Upon request of MDFC Lessee shall perform any necessary maintenance and repairs to Cars on Lessee's railroad tracks as may be reasonably requested by MDFC. MDFC shall also make, at its expense, all alterations, modifications or replacement of parts as shall be necessary to maintain the Cars in good operating condition throughout the term of the lease of such Cars. Lessee may make running repairs to facilitate continued immediate use of a Car, but shall not otherwise make any repairs, alterations, improvements or additions to the Cars without MDFC's prior written consent. If Lessee makes an alteration, improvement or addition to any Car without MDFC's prior written consent, Lessee shall be liable to MDFC for any revenues lost due to such alteration. Title to any such alteration, improvement or addition shall be and remain with MDFC.

C. Lessee will at all times while this Agreement is in effect be responsible for the Cars while on Lessee's railroad tracks in the same manner that Lessee is responsible under Rule 7 of the AAR Car Service and Car Hire Agreement Code of Car Service Rules—Freight for freight cars not owned by Lessee on Lessee's railroad tracks. Lessee shall protect against the consequences of an event of loss involving the Cars while on Lessee's railroad tracks by obtaining insurance. Lessee shall also maintain bodily injury and property damage liability insurance. Lessee shall furnish MDFC concurrently with the execution hereof and thereafter at intervals of not more than twelve calendar months with certificates of insurance with respect to the insurance required as aforesaid signed by an independent insurance broker. All insurance shall be taken out in the name of Lessee and MDFC (or its assignee) as their interests may appear.

D. MDFC agrees to reimburse Lessee for all taxes, assessments and other governmental charges of whatsoever kind or character paid by Lessee relating to each Car and on the lease, delivery or operation thereof which may remain unpaid as of the date of delivery of such Car to Lessee or which may be accrued, levied, assessed or imposed during the lease term, except taxes on income imposed on Lessee and sales or use taxes imposed on the mileage charges and/or car hire revenues.

MDFC shall forward to Lessee all sales and use tax payments received by it on behalf of Lessee. MDFC and Lessee will comply with all state and local laws requiring the filing of ad valorem tax returns on the Cars. MDFC shall review all applicable tax returns prior to filing.

6. Lease Rental

A. Lessee agrees to pay the following rent to MDFC for the use of the Cars:

(i) MDFC shall receive all payments made to Lessee by other railroad companies for their use or handling of the Cars, including but not limited to mileage charges, straight car hire payments and incentive car hire payments (all of which payments made to Lessee are hereinafter collectively referred to as "payments") if the utilization of all of the Cars delivered to Lessee on an aggregate basis for each calendar year shall be equal to or less than 90 per cent. For the purpose of this Agreement, utilization of the Cars shall be determined by a fraction, the numerator of which is the aggregate number of days in each calendar year that car hire payments are earned by Lessee on the Cars, commencing from the initial loading, and the denominator of which is the aggregate number of days in each calendar year that the Cars are on lease to Lessee, commencing from the initial loading (such term referred to as "utilization"). In addition, MDFC will receive, as additional rental, all monies earned by the Cars prior to their initial loading.

(ii) In the event utilization exceeds 90 per cent in any calendar year, BRAE shall receive an amount equal to the MDFC Base Rental plus an amount equal to one-half of the payments earned in excess of the MDFC Base Rental. For the purpose hereof, MDFC Base Rental shall be an amount equal to the total payments for the calendar year multiplied by a fraction, the numerator of which is 90 per cent and the denominator of which is the utilization for such calendar year. (The above determination of MDFC Base Rental insures that Lessee will, if utilization is greater than 90 per cent in any calendar year, receive one-half of all the payments made by other railroads for use or handling of the Cars in excess of the MDFC Base Rental.)

(iii) If MDFC pays other railroads to move Cars in accordance with Section 3A, except for any payments incurred to deliver such Cars to Lessee's railroad line, Lessee shall reimburse MDFC for such payments only from and out of the monies received by Lessee pursuant to Subsection 6A(ii).

(iv) The rental charges payable to MDFC by Lessee shall be paid from the payments received by Lessee in the following order until MDFC receives the amounts due it pursuant to this section: (1) incentive car hire payments; (2) straight car hire payments; (3) mileage charges and (4) other.

(v) In the event damage beyond repair or destruction of a Car has been reported in accordance with Rule 7 of the AAR Car Service and Care Hire Agreement Code of Car Hire Rules—Freight and the appropriate amount due as a result thereof is received by MDFC, said damaged or destroyed Car will be removed from the coverage of this Agreement as of the date that payment of car hire payments ceased.

B. The calculations required above shall be made within five months after the end of each calendar year. However, to enable MDFC to meet its financial commitments, MDFC may, prior to such calculations, retain the payments received by it on behalf of Lessee. Further, since the parties desire to determine on a quarterly basis the approximate amount of the rental charges due MDFC, MDFC shall within three months after the end of each calendar quarter, calculate on a quarterly basis rather than a yearly basis the amount due it pursuant to this section. Any amounts payable pursuant to the preceding sentence shall be paid promptly following such calculation, provided, however, that following the yearly calculation, any amount paid to either party in excess of the amounts required by the yearly calculation shall be promptly refunded to the appropriate party.

C. If at any time during a calendar quarter, the number of days that the Cars have not earned car hire payments is such as to make it mathematically certain that the utilization in such calendar quarter cannot be equal to or greater than 87.5 per cent, MDFC may, at its option and upon not less than ten (10) days' prior written notice to Lessee, terminate this Agreement as to such Cars as MDFC shall determine.

D. MDFC may, at its option, terminate this Agreement if the IOC shall, at any time, (1) issue an order reducing incentive car hire payments for Cars on an annual basis to three months or less without a corresponding increase in straight car hire payments or other monies available to both MDFC and Lessee at least equal in amount to such reduction, (2) determine that Lessee may not apply its incentive car hire receipts in payment of the rental charges set forth in this section or (3) require that Lessee spend funds not earned by the Cars in order for Lessee to continue to meet its obligations set forth in this section.

E. During the term of this Agreement, if any Car remains on Lessee's railroad tracks for more than seven consecutive days, MDFC may, at its option and upon not less than twenty-four (24) hours' prior written notice, terminate this Agreement as to such Car and withdraw such Car from Lessee's railroad tracks. If any such Car remains on Lessee's railroad tracks more than seven consecutive days because Lessee has not given preference to the Cars as specified in Section 3B, Lessee shall be liable for and remit to MDFC an amount equal to the payments Lessee would have earned if such Cars were in the physical possession and use of another railroad for the entire period.

7. Possession and Use

A. So long as Lessee shall not be in default under this Agreement, Lessee shall be entitled to the possession, use and quiet enjoyment of the Cars in accordance with the terms of this Agreement and in the manner and to the extent Cars are customarily used in the railroad freight business, provided that Lessee retain on its railroad tracks no more Cars than are necessary to fulfill its immediate requirements to provide transportation and facilities upon reasonable request therefor to shippers on its railroad tracks. However, Lessee's rights shall be subject and subordinate to the rights of any owner or secured party under any financing agreement entered into by MDFC in connection with the acquisition of Cars, i.e., upon notice to Lessee from any such secured party or owner that an event of default has occurred and is continuing under such financing agreement, such party may require that all rent shall be made directly to such party and/or that the Cars be returned to such party. Lessee agrees that to the extent it has physical possession and can control use of the Cars, the Cars will at all times be used and operated under and in compliance with the laws of the jurisdiction in which the same may be located and in compliance with all lawful acts, rules and regulations, and orders of any governmental bodies or officers having power to regulate or supervise the use of such property, except that either MDFC or Lessee may in good faith and by appropriate proceedings contest the application of any such rule, regulation or order in any reasonable manner at the expense of the contesting party.

B. Lessee will not directly or indirectly create, incur, assume, or suffer to exist any mortgage, pledge, lien, charge, encumbrance, or other security interest or claim on or with respect to the Cars or any interest therein or in this Agreement or any Schedule thereto. Lessee will promptly, at its expense, take such action as may be necessary to duly discharge any such mortgage, pledge, lien, charge, encumbrances, security interest, or claim if the same shall arise at any time.

8. Default

A. The occurrence of any of the following events shall be an event of default:

(i) The nonpayment by Lessee of any sum required herein to be paid by Lessee within ten (10) days after the date any such payment is due.

(ii) The breach by Lessee of any other term, covenant, or condition of this Agreement, which is not cured within ten (10) days thereafter.

(iii) Any act of insolvency by Lessee, or the filing by Lessee of any petition or action under any bankruptcy, reorganization, insolvency or moratorium law, or any other law or laws for the relief of, or relating to, debtors.

(iv) The filing of any involuntary petition under any bankruptcy, reorganization, insolvency or moratorium law against Lessee that is not dismissed within sixty (60) days thereafter, or the appointment of any receiver or trustee to take possession of the properties of Lessee, unless such petition or appointment is set aside or withdrawn or ceases to be in effect within sixty (60) days from the date of said filing or appointment.

(v) The subjection of any of Lessee's property to any levy, seizure, assignment, application or sale for or by any creditor or governmental agency.

(vi) Any action by Lessee to discontinue rail service on all or a portion of its tracks or abandon any of its rail properties pursuant to applicable provisions of the Interstate Commerce Act or the laws of any state.

* See page 6-A

B. Upon the occurrence of any event of default, MDFC may, at its option, terminate this Agreement and may

(i) Proceed by any lawful means to enforce performance by Lessee of this Agreement or to recover damages for a breach thereof (and Lessee agrees to bear MDFC costs and expenses, including reasonable attorneys' fees, in securing such enforcement), or

(ii) By notice in writing to Lessee, terminate Lessee's right of possession and use of the Cars, whereupon all right and interest of Lessee in the Cars shall terminate; and thereupon MDFC may enter upon any premises where the Cars may be located and take possession of them and henceforth hold, possess and enjoy the same free from any right of Lessee. MDFC shall nevertheless have the right to recover from Lessee any and all rental amounts which under the terms of this Agreement may then be due or which may have accrued to that date.

9. Termination

At the expiration or termination of this Agreement as to any Cars, Lessee will surrender possession of such Cars to MDFC by delivering the same to MDFC. A Car shall be no longer subject to this Agreement upon the removal of Lessee's railroad markings from the Cars and the placing thereon of such markings as may be designated by MDFC, either, at the option of MDFC, (1) by Lessee upon return of such Cars to Lessee's railroad line or (2) by another railroad line which has physical possession of the Car at the time of or subsequent to termination of the lease term as to such Car. If such Cars are not on the railroad line of Lessee upon termination, any cost of assembling, delivering, storing, and transporting such Cars to Lessee's railroad line or the railroad line of a subsequent lessee shall be borne by MDFC. If such Cars are on the railroad line of Lessee upon such expiration or termination or are subsequently returned to Lessee's railroad line, Lessee shall at its own expense within five working days remove Lessee's railroad markings from the Cars and place thereon such markings as may be designated by MDFC. After the removal and replacement of markings, Lessee shall use its best efforts to load such Cars with freight and deliver them to a connecting carrier for shipment. Lessee shall provide up to sixty (60) days' free storage on its railroad tracks for MDFC or the subsequent lessee of any terminated Car. If any Car is terminated pursuant to Subsections 6C or 6E or Section 8 prior to the end of its lease term, Lessee shall be liable to MDFC for all costs and expenses incurred by MDFC to repaint the Cars and place thereon the markings and name or other insignia of MDFC subsequent lessee.

8. Default - cont'd

(vii) The default of Lessee under that certain Lease dated as of April 21, 1978, between Brae Corporation and Lessee relating to 25 general purpose boxcars.

(viii) The default by Lessee under or termination or non-renewal of any of the operating agreements under which Lessee operates the North Stratford Railway, including but not limited to the North Stratford Railroad Corporation Railroad Operating Agreement for Beecher Falls Rail Line with New Hampshire Public Utilities Commission dated March 3, 1977.

10. Indemnities

MDFC will defend, indemnify and hold Lessee harmless from and against (1) any and all claims based upon loss or damage to the Cars, unless occurring while Lessee has physical possession of Cars and (2) any other type of claim, cause of action, damage, liability, cost or expense which may be asserted against Lessee with respect to the Cars (unless occurring through the fault of Lessee), including without limitation claims with respect to the construction, purchase, delivery to Lessee's railroad line, ownership, leasing, return, use, maintenance, repair, replacement, operation or condition (whether defects, if any, are latent or are discoverable by MDFC or Lessee) of the Cars.

11. Representations, Warranties and Covenants

Lessee represents, warrants and covenants that:

(i) Lessee is a corporation duly organized, validly existing and in good standing under the laws of the state where it is incorporated and has the corporate power and authority, and is duly qualified and authorized to do business wherever necessary, to carry out its present business and operations and to own or hold under lease its properties and to perform its obligations under this Agreement.

(ii) The entering into and performance of this Agreement will not violate any judgment, order, law or regulation applicable to Lessee, or result in any breach of, or constitute a default under, or result in the creation of any lien, charge, security interest or other encumbrance upon any assets of Lessee or on the Cars pursuant to any instrument to which Lessee is a party or by which it or its assets may be bound.

(iii) There is no action or proceeding pending or threatened against Lessee before any court or administrative agency or other governmental body which might result in any material adverse effect on the business, properties and assets, or conditions, financial or otherwise, of Lessee.

(iv) There is no fact which Lessee has not disclosed to MDFC in writing, nor is Lessee a party to any agreement or instrument nor subject to any charter or other corporate restriction which, so far as the Lessee can now reasonably foresee, will individually or in the aggregate materially adversely affect the business, condition or any material portion of the properties of the Lessee or the ability of the Lessee to perform its obligations under this Agreement.

(v) Lessee has not during the years 1964-1968 built, leased or purchased new freight cars or rebuilt freight cars.

12. Inspection

MDFC shall at any time during normal business hours have the right to enter the premises where the Cars may be located for the purpose of inspecting and examining the Cars to insure Lessee's compliance with its obligations hereunder. Lessee shall immediately notify MDFC of any accident connected with the malfunctioning or operation of the Cars, including in such report the time, place and nature of the accident and the damage caused, the names and addresses of any persons injured and of witnesses, and other information pertinent to Lessee's investigation of the accident. Lessee shall also notify MDFC in writing within five (5) days after any attachment, tax lien or other judicial process shall attach to any Car. Lessee shall furnish to MDFC promptly upon its becoming available, a copy of its annual report submitted to the ICC and, when requested, copies of any other income or balance sheet statements required to be submitted to the ICC.

13. Miscellaneous

A. This Agreement and the Schedules contemplated hereby shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns, except that

- * 11 (vi) The entering into and performance of this Agreement by Lessee does not require the consent, license, approval, authorization of, or filing, registration or declaration with, any governmental or regulatory authority having jurisdiction over Lessee.

Lessee may not without the prior written consent of MDFC assign this Agreement or any of its rights hereunder or sublease the Cars to any party, and any purported assignment or sublease in violation hereof shall be void.

B. Both parties agree to execute the documents contemplated by this transaction and such other documents as may be required in furtherance of any financing agreement entered into by MDFC in connection with the acquisition of the Cars in order to confirm the financing party's interest in and to the Cars, this Agreement and Schedules hereto and to confirm the subordination provisions contained in Section 7 and in furtherance of this Agreement.

C. It is expressly understood and agreed by the parties hereto that this Agreement constitutes a lease of the Cars only and no joint venture or partnership is being created. Notwithstanding the calculation of rental payments, nothing herein shall be construed as conveying to Lessee any right, title or interest in the Cars except as a lessee only.

D. No failure or delay by MDFC shall constitute a waiver or otherwise affect or impair any right, power or remedy available to MDFC nor shall any waiver or indulgence by MDFC or any partial or single exercise of any right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy.

E. This Agreement shall be governed by and construed according to the laws of the State of California.

F. All notices hereunder shall be in writing and shall be deemed given when delivered personally or when deposited in the United States mail, postage prepaid, certified or registered, addressed to the president of the other party at the address set forth above.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

MDFC EQUIPMENT LEASING CORPORATION

NORTH STRATFORD RAILROAD CORPORATION

By: Thomas Lambell

By: Edward M. Clark

Title: WESTERN REGION MANAGER

Title: President

Date: JUL 16, 1979

Date: July 13, 1979

Rider No. 1 to the Lease Agreement made as of July 2, 1979 between MDFC EQUIPMENT LEASING CORPORATION and the NORTH STRATFORD RAILROAD CORPORATION.

Sections 5B and 6A (ii) ARE HEREBY AMENDED AS FOLLOWS:

5B "Change the second sentence of this paragraph to read as follows:

Upon request of MDFC, Lessee to the extent of its capabilities shall perform any necessary maintenance and repairs to cars on Lessee's railroad tracks as may be reasonably requested by MDFC.

6A (ii) "Delete 6A (ii) in its entirety and substitute in lieu thereof the following:

In the event utilization exceeds 90 per cent in any calendar year, MDFC shall receive an amount equal to the MDFC Base Rental plus an amount equal to one-half of the payments earned in excess of the MDFC Base Rental up to 95 per cent utilization. All payments in excess of 95 per cent utilization are to be forwarded to Lessee. For the purpose hereof, MDFC Base Rental shall be an amount equal to the total payments for the calendar year multiplied by a fraction, the numerator of which is 90 per cent and the denominator of which is the utilization for such calendar year.

Section 14 There shall be added to the Lease Agreement a new Section 14 as follows:

Lessee acknowledges that MDFC has entered into a Management Agreement with Brae Corporation pursuant to which MDFC has delegated to Brae certain of its duties under this Lease including but not limited to the duties under paragraphs 3A, 4, 5B, and 6B. Lessee consents to such delegation and further consents that MDFC may, from time to time, upon notice to Lessee change such delegation.

MDFC EQUIPMENT LEASING CORPORATION

BY:

Thomas Campbell

TITLE: WESTERN REGION MANAGER

DATE:

JULY 16, 1979

NORTH STRATFORD RAILROAD CORPORATION

BY:

Edward M Clark

TITLE:

President

DATE:

July 13, 1979

EQUIPMENT SCHEDULE NO. 1

MDFC EQUIPMENT LEASING CORPORATION hereby leases the following Cars to NORTH STRATFORD RAILROAD CORPORATION pursuant to that certain Lease Agreement dated as of July 2, 1979

A.A.R. Mech. Design	Description	Numbers	Dimensions			Doors Width	No. of Cars
			Length	Inside Width	Height		
XM	40' General Purpose Rebuilt Boxcars	NSRC - 425-499	40'6"			8'	75

MDFC EQUIPMENT LEASING CORPORATION

BY: Thomas LambelTITLE: WESTERN REGION MANAGERDATE: JULY 16, 1979

NORTH STRATFORD RAILROAD CORP.

BY: Edward M ClarkTITLE: PresidentDATE: July 13, 1979

STATE OF N.H.
COUNTY OF Rockingham

On this 13 day of July, 1979, before me personally appeared Edward M. Clark to me personally known, who being by me duly sworn says that such person is President of No. 5 Railroad Corp. that the foregoing Lease Agreement, Rider(s) No. 1 and Equipment Schedule(s) No. 1 were signed on behalf of said corporation by authority of its board of directors, and such person acknowledged that the execution of the foregoing instruments were the free acts and deeds of such corporation.

Marie C. Gorman
Notary Public

Marie C. Gorman
Notary Public

My Commission Expires October 2, 1979

STATE OF California
COUNTY OF San Francisco

On this 16 day of July, 1979, before me personally appeared Thomas L. Lavisach to me personally known, who being by me duly sworn says that such person is Western Region Manager of MDFC EQUIPMENT LEASING CORPORATION, that the foregoing Lease Agreement, Rider(s) No. 1 and Equipment Schedule(s) No. 1 were signed on behalf of said corporation by authority of its board of directors, and such person acknowledged that the execution of the foregoing instruments were the free acts and deeds of such corporation.

M. Battle
Notary Public

